IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

CIVIL APPLICATION NO. 1563 OF 2005
IN
SECOND APPEAL NO. 128 OF 1990

Office Notes, Office Memoranda of of Coram, appearances, Court's orders and Registrar's orders : Court's or Judge's orders

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Mr. Sachin Marale holding for Suresh S. Pakale for the applicants.

Mr. L.S. Gaikwad for the respondents.

CORAM: P.V. KAKADE, J.

DATED: 23RD SEPT., 2005

P.C.:

1. Heard both sides.

2. This is an application to set aside the order dated 14.9.2004 dismissing the appeal for default. This application is again delayed by 286 days. Learned counsel for the respondents takes objection for such delayed application. However, contents of the application show that it was a mistake of earlier advocate due to which the delay has been caused. In my view, the party should not suffer due to the mistake of the advocate.

3. Hence, in view of the facts and

circumstances, the application is made absolute in terms of prayer clauses (a) & (b) on condition that the cost of Rs.5000/- shall be paid by the applicants, out of which amount of Rs.3000/- shall be donated the State Legal Aid Authority within two weeks and remaining amount shall be paid to the respondents within the same period from today. With this direction the application stands disposed of with no further order as to costs.

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